

House Bill 1396

By: Representative Scott of the 153<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Article 4 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to grand juries, so as to provide for a regional grand jury; to provide for a short title; to provide for definitions; to provide for jurisdiction and powers of a regional grand jury; to provide for selecting, impaneling, and the term of such grand jurors; to provide for prosecution and venue; to provide for judicial supervision; to provide for the Attorney General to attend and present evidence to such grand jury; to provide for appointment or election of a foreperson and the oath of regional grand jurors; to provide for expense allowances and travel cost reimbursement; to provide for a stenographer; to provide for related matters; to provide for a contingent effective date; to provide for applicability; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 4 of Chapter 12 of Title 15 of the Official Code of Georgia Annotated, relating to grand juries, is amended by adding a new part to read as follows:

"Part 3

15-12-110.

This part shall be known and may be cited as the 'Georgia Regional Grand Jury Act.'

15-12-111.

As used in this part, the term:

(1) 'Attorney General designee' means any assistant attorney general, special assistant attorney general, district attorney, assistant district attorney, or special assistant district attorney designated by the Attorney General to appear before a regional grand jury.

(2) 'Criminal act of terrorism' means any crime which involves acts dangerous to human life and which are intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by mass destruction, assassination, or kidnapping.

(3) 'Designated judge' means a superior court judge designated by the Supreme Court of Georgia to impanel and preside over a regional grand jury.

(4) 'Public corruption' means any unlawful activity under color of or in connection with any public office, public employment, or public contract by:

(A) Any public official, public employee, member of any public authority, agency, commission, council, board, bureau, or instrumentality, or the agent, servant, assignee, consultant, contractor, vendor, designee, appointee, representative, or any other person of like relationship, by whatever designation known, of any such public official, public employee, or member under color of or in connection with any public office or public employment;

(B) Any person, corporation, partnership, or firm of any description that commits any crime in relation to the securing or performance of any contract with any public authority, agency, commission, council, board, bureau, or instrumentality; or

(C) Any person or group of persons, individually or in concert, who violates any election law of this state, the commission of which constitutes a felony.

15-12-112.

(a) The jurisdiction of a regional grand jury shall extend throughout its designated region, and it may investigate and return indictments for crimes committed any place within its region. For the purposes of this part, the state shall be divided into three regions which individually shall be known as the Northern, Middle, and Southern Regions and which shall be geographically identical to and coincide with the three districts established for the United States District Courts of this state, as set forth in 28 U.S.C. Section 90.

(b) All laws relating to county grand juries shall apply to regional grand juries to the extent that such laws are consistent with the provisions of this part.

(c) A regional grand jury may conduct investigations prior to the presentation of a proposed indictment by the Attorney General or Attorney General designee. A regional grand jury may compel the production of evidence and subpoena witnesses, inspect or require the production of records, documents, correspondence, and books of any department, agency, board, bureau, commission, institution, or authority of the state or any of its political subdivisions, and require production of records, documents, correspondence, and books of any person, firm, or corporation which relate directly or indirectly to the

subject of the investigation being conducted. A regional grand jury's subpoena may be signed by any official authorized by the regional grand jury to issue such process.

(d) Regional grand juries shall have jurisdiction to investigate and return indictments or presentments for crimes involving:

(1) Public corruption; or

(2) Persons, conspiracies, enterprises, entities, or other organizations which occur in or affect more than one county, including, but not limited to, criminal acts of terrorism; telemarketing fraud, Internet fraud, or home repair fraud in violation of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975'; violation of Article 5 of Chapter 8 of Title 16, the 'Georgia Residential Mortgage Fraud Act'; violation of Article 6 of Chapter 9 of Title 16, the 'Georgia Computer Systems Protection Act'; identity fraud in violation of Article 8 of Chapter 9 of Title 16; trafficking in cocaine, illegal drugs, marijuana, or methamphetamine in violation of Code Section 16-13-31; racketeering activity in violation of Chapter 14 of Title 16, the 'Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act'; criminal gang activity as defined in Code Section 16-15-3; and any ancillary crimes.

15-12-113.

(a) When the Attorney General deems it to be in the public interest to convene a regional grand jury, the Attorney General shall file a written petition with the Supreme Court of Georgia. The petition shall demonstrate a need for the investigation of crimes involving public corruption or other crimes occurring in more than one county. The petition shall demonstrate that the matter to be investigated cannot be effectively handled by a county grand jury. At the request of the Attorney General, the Supreme Court may direct that the petition be filed under seal in order to preserve the secrecy of the proceedings. Upon finding that the Attorney General has set forth good and sufficient cause for impaneling a regional grand jury, the Supreme Court shall issue an order designating a superior court judge who presides within the appropriate region to impanel and preside over the regional grand jury.

(b) The regional grand jury shall be impaneled and sit in a county in the judicial circuit in which the designated judge presides. If the designated judge presides in a judicial circuit with more than one county, the designated judge shall select the county in which the regional grand jury shall sit.

(c) When the Attorney General deems it to be in the public interest to convene one or more additional regional grand juries, the Attorney General may apply to the Supreme Court which, upon finding good and sufficient cause, shall order the impaneling of one or more additional regional grand juries.

(d) The designated judge shall issue an order selecting the counties from which the regional grand jurors shall be drawn. The regional grand jurors shall be chosen from not fewer than four counties within the region, which counties need not be contiguous to the county in which the regional grand jury shall sit; provided, however, that the selection of the counties shall be made with due regard for expense and convenience of travel.

(e) The clerk of superior court of the county in which the regional grand jury shall sit shall act as the clerk for the regional grand jury. Upon receipt of the order designating the counties from which the regional grand jurors shall be chosen, the clerk shall prepare a list of prospective regional grand jurors drawn from current jury lists of those counties, which lists shall be provided upon demand to the clerk by the clerks of superior court of those counties selected by the designated judge.

(f) The regional grand jury shall consist of not less than 16 nor more than 23 persons. The votes of at least 12 regional grand jurors shall be necessary to return a bill of indictment or to make a presentment. Three alternate regional grand jurors may be sworn and, subject to the maximum number fixed in this subsection, may serve when any regional grand juror dies, is discharged for any cause, becomes ill, or is for other cause absent during any sitting. Nothing contained in this Code section shall limit the authority of the designated judge to replace a regional grand juror.

(g) No more than five regional grand jurors shall be residents of any one county, and no more than 12 regional grand jurors shall be residents of any one judicial circuit.

(h) A person shall be qualified to serve as a regional grand juror if the person would otherwise be qualified to serve as a county grand juror in his or her county of residence.

(i) The term of a regional grand jury shall be 12 months; provided, however, that the designated judge, upon good cause shown by the Attorney General or an Attorney General designee, may extend the term to 18 months.

15-12-114.

The Attorney General and, within their respective circuits, the district attorneys of the state shall be empowered to prosecute indictments returned by a regional grand jury in any county in which venue is proper. Nothing contained in this part shall limit the authority of a county grand jury, special grand jury, district attorney, solicitor general, or other law enforcement personnel to investigate, indict, or prosecute offenses within the jurisdiction of the regional grand jury.

15-12-115.

Judicial supervision of the regional grand jury shall be provided by the designated judge, and all indictments, presentments, and other formal returns of any kind made by the

regional grand jury shall be returned to the designated judge. The designated judge shall charge the regional grand jury on its powers and duties and shall require periodic reports of the regional grand jury's progress. The designated judge shall transmit any bill of indictment to the clerk of the superior court of the county where the crime or crimes were committed, as alleged in the indictment returned by the regional grand jury.

15-12-116.

The Attorney General or one or more Attorney General designees shall attend the regional grand jury and shall serve as the legal adviser to the regional grand jury. Presentation of evidence shall be made to the regional grand jury by the Attorney General or one or more Attorney General designees. The Attorney General or one or more Attorney General designees shall oversee regional grand jury investigations.

15-12-117.

(a) The designated judge may appoint the foreperson of the regional grand jury or may direct the regional grand jury to elect its own foreperson. The foreperson may administer the oath prescribed to all witnesses required to testify before the regional grand jury and may also examine such witnesses.

(b) The following oath shall be administered to the foreperson and to each member of a regional grand jury:

'You, as foreperson (or member) of the regional grand jury, shall diligently inquire and true presentment make of all such matters and things as shall be given you in the court's charge or shall come to your knowledge touching the present service; and you shall keep the deliberations of the regional grand jury secret unless called upon to give evidence thereof in some court of law in this state. You shall present no one from envy, hatred, or malice, nor shall you fail to present anyone from fear, favor, affection, reward, or the hope thereof, but you shall present all things truly and as they come to your knowledge. So help you God.'

15-12-118.

(a) Each member of a regional grand jury impaneled pursuant to this part shall be entitled to a fee for each day or part of a day of service in the amount of \$40.00. In addition, each such member shall be entitled to receive reimbursement for:

(1) The actual cost of necessary meals and lodging for each day served, not to exceed the expense allowance provided in subsection (b) of Code Section 45-7-21; and

(2) Travel cost for necessary round trip travel from the juror's residence to the site selected by the designated judge pursuant to subsection (b) of Code Section 15-12-113

in the amount authorized for use of a personal vehicle in Code Section 50-19-7 or the actual cost of public transportation, not to exceed the amount authorized for use of a personal vehicle.

(b) Reimbursement shall be from the Department of Administrative Services and requested on forms provided by such department, signed and submitted by each juror through the clerk of superior court designated in subsection (e) of Code Section 15-12-113.

15-12-119.

A stenographer shall be authorized to be present and in attendance upon the regional grand jury. Before attending the regional grand jury, the stenographer shall take the following oath:

'I do solemnly swear that I will keep secret all things and matters coming to my knowledge while in attendance upon the regional grand jury, so help me God.'

Reimbursement shall be from the Department of Administrative Services and requested on forms provided by such department, provided that the amount submitted by the stenographer shall be approved by the Attorney General or Attorney General designee."

## **SECTION 2.**

This Act shall become effective on January 1, 2011; provided, however, that this Act shall only become effective on January 1, 2011, upon the ratification of a resolution at the November, 2010, state-wide general election, which resolution amends the Constitution so as to authorize the creation of regional grand juries and authorize the General Assembly to specify procedures for regional grand juries. If such resolution is not so ratified, this Act shall not become effective and shall stand repealed in its entirety on January 1, 2011.

## **SECTION 3.**

All laws and parts of laws in conflict with this Act are repealed.